

ENTERED

February 07, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

U.S. BANK N.A.,

Plaintiff,

VS.

LEAL LINDSEY, *et al.*,

Defendants.

§
§
§
§
§
§
§
§

CIVIL ACTION NO. 4:22-CV-03499

ORDER

Before the Court are United States Magistrate Judge Yvonne Y. Ho's Memorandum and Recommendation filed on January 5, 2024 (Doc. #40) and Defendant Diana Lindsey's Objections (Doc. #41). The Magistrate Judge's findings and conclusions are reviewed de novo. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). Having reviewed the parties' arguments and applicable legal authority, the Court adopts the Memorandum and Recommendation as its Order.

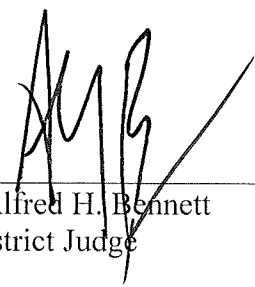
Defendant Diana Lindsey ("Defendant") objects to Judge Ho's recommendation that her Motion to Dismiss (Doc. Nos. 34, 35) be denied because the Court has subject-matter jurisdiction over the suit. Doc. #41. Specifically, Defendant argues that the "probate exception" to diversity jurisdiction applies in this case and that Judge Ho "misapplied the doctrine of prior exclusive jurisdiction" in reaching her conclusion. *Id.* at 3. However, the Court disagrees and finds that Judge Ho's analysis as stated in the Memorandum and Recommendation comports with the law. *See Cmty. Bank of Lafourche v. Lori Ann Vizier, Inc.*, 541 F. App'x 506, 510 (5th Cir. 2013); *United States v. Sid-Mars Rest. & Lounge, Inc.*, 644 F.3d 270, 275 (5th Cir. 2011).

Accordingly, Defendant's Motion to Dismiss (Doc. Nos. 34, 35) and Defendant's Motion to Compel Release of Homeowner Insurance Funds (Doc. #26) are DENIED.

It is so ORDERED.

FEB 07 2024

Date



The Honorable Alfred H. Bennett
United States District Judge